REMARKS

Claims 1, 2, and 4-7 remain in the application and stand finally rejected. Reconsideration of the final rejection is respectfully requested in light of the following reasons.

Claim Rejections – 35 U.S.C. § 112

Claims 1-6 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite because, according to the last office action, the preamble describes a method of providing product information whereas the body of the claim describes the process of offering a computer program. The rejection is respectfully traversed.

There is no inconsistency between the preamble and body of claim 1. The preamble of claim 1 recites a method of providing product information, while the body of claim 1 recites providing third party information about a computer program. As is well known, a computer program may be a product depending on whether it is being produced for commercial sale. In fact, U.S. Publication No. 2002/0002538 by Ling ("Ling"), cited in the last office action, discusses **software products** for sale or rental (Ling Abstract). It is respectfully submitted that the proposition that a "computer program is not considered a product unless it is tangibly embodied" has no support in either law or common practice.

Therefore withdrawal of the rejection of claims 1-6 is respectfully requested.

Claim Rejection -- 35 U.S.C. § 103 (Ling and Shiratori)

Claims 1, 2, 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being obvious over Ling in view of U.S. Patent No. 5,758,111 to Shiratori et al. ("Shiratori"). The rejection is respectfully traversed.

As noted in the last office action, Ling does not disclose the process of detecting an occurrence of a first window in the computer. This is not surprising considering that Ling merely pertains to the use of tokens in electronic commerce (Ling, Abstract).

The last office action suggests that it would have been obvious to modify Ling to

include the window-detecting unit of Shiratori. According to the last office action, "it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ling in view of Shiratori in order to detect an occurrence of a first window in the computer, since Shiratori teaches a process of detecting the presence of at least a window." This conclusion is suspect for several reasons. Firstly, that Shiratori teaches a window-detecting unit is no justification for the proposed combination. That is, that Shiratori teaches a window-detecting unit, by itself, does not constitute a motivation for one of ordinary skill in the art to combine Shiratori's teaching with that of Ling.

Secondly, a window-detecting unit would serve no purpose in Ling. In Ling, all the web pages needed by a user to complete a transaction are provided by the vendor's server -- there is no need for a vendor's server to detect the occurrence of a window to read the web page displayed in the window (e.g., see Ling, paragraphs [0004], [0007], [0028], FIG. 2 (server 20), FIG. 5, etc.).

Thirdly, Ling discloses a server side application. In Ling, the web pages, databases, and other data for selling products and services over a network are in one or more servers **controlled by the vendor** (Ling, FIG. 2, server 20; paragraphs [0069] and [0070]). Even if Shiratori's window-detecting unit detects the occurrence of a first window in the user's computer, there is no way for Ling's system to determine whether or not the first window is offering a product unless the window is from a vendor server, in which case there is no need to detect the occurrence of the first window in the first place.

Claim 1 is further patentable over Ling and Shiratori at least for reciting: "determining if the first window includes an offer to download a computer program." Ling paragraphs [0105] and [0106], cited in the last office action, discusses the method shown in FIG. 5. As is clear from Ling FIG. 5, the vendor server displays the intro page to the user (step 301) and all other pages needed for the transaction. That is, Ling does not require "determining" whether any of those pages includes an offer to download a computer program because the vendor server itself provides those web pages. Nothing in Ling FIG. 5 or paragraphs [0105] and [0106] pertains to determining the content of a window.

Claim 1 is further patentable over Ling and Shiratori at least for reciting: "displaying a second window, the second window including **third party** information about the computer program." Note that there is no ambiguity in what a "third party" means as it is a common phrase. For example, Ling itself refers to third parties (Ling, Abstract). In Ling, the information about the software products is provided and controlled by the vendor of the software product, (Ling, Abstract; paragraphs [0027]-[0029]), not a third party. This is particularly suspect from the user's point of view as the vendor does not have any incentive to provide negative information about its own product. Neither Ling nor Shiratori discloses or suggests providing third party information about a product being offered for download.

Claim 1 is further patentable over Ling and Shiratori at least for reciting "a first window" and "a second window." Although Ling provides multiple web pages to the user, Ling only operates on a single window – the browser window. There is no reason for Ling to detect an occurrence of a first window then display third party information in a second window.

For at least the above reasons, claim 1 is patentable over Ling and Shiratori. Claims 2, 4, and 5 depend on claim 1 and are thus patentable over Ling and Shiratori at least for the same reasons that claim 1 is patentable.

Claim Rejection -- 35 U.S.C. § 103 (Ling, Shiratori, and Rowley)

Claim 6 stands rejected under 35 U.S.C. § 103(a) as being obvious over Ling in view of Shiratori and further in view of U.S. Patent No. 5,999,740 to Rowley ("Rowley"). The rejection is respectfully traversed.

It is respectfully submitted that the teachings of Rowley cannot be combined with that of Ling and Shiratori. Rowley discloses a process for upgrading applications in a client computer. Ling cannot use Rowley's upgrade process as Ling's product list is in the server 20 (Ling FIG. 2), not in a user's client computer. In fact, Ling's processes must be in a server as they are used for electronic commerce on the Internet. In contrast, claim 6 requires that the product list is updateable by downloading a new product list

from a remote computer to the computer (i.e. the recited computer where detection of the occurrence of the first window occurs – the client). Ling's processes cannot be updated in a client computer unless they are moved to the client computer, which is not feasible because Ling's server must serve thousands, if not millions, of client computers on the Internet. Therefore, it is respectfully submitted that claim 6 is patentable over Ling, Shiratori, and Rowley.

Claim Rejection -- 35 U.S.C. § 103 (Ling, Shiratori, and Barritz)

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being obvious over Ling in view of Shiratori and further in view of U.S. Patent No. 6,029,145 to Barritz et al. ("Barritz"). The rejection is respectfully traversed.

As explained above, Ling does not disclose or suggest detecting the occurrence of a new window. In fact, Ling does not have a need to detect the opening of a new window as it provides all the pages needed by the user to complete the transaction. Ling also operates on a single window (the browser window). Therefore, the combination of Ling with Shiratori is suspect as it does not have any real purpose. Furthermore, Ling does not disclose or suggest displaying of third party information about computer programs. Yet further still, as noted in the last office action, neither Ling nor Shiratori discloses a window analyzer. Barritz does not disclose or suggest a window analyzer either.

Barritz col. 5, lines 22 to col. 6 lines 41, cited in the last office action, does not disclose anything relating to windows. This is not surprising as Barritz pertains to file inspection. The cited portion of Barritz discloses inspection of directories and files to detect software products in a computer. A file is **NOT** a window. It is respectfully submitted that Barritz does not disclose anything that can determine contents displayed in a **window**.

Even if Barritz could read and analyze a window (it cannot), Ling has no use for such a window analyzer. Firstly, Ling only operates on a singe window – the browser window. There is nothing in Ling that hints of a need to work on another window other than the browser window. Secondly, Ling provides all the web pages the user needs to

complete the transaction. Ling surely knows the contents of such web pages, so there is no need for a window analyzer to analyze the contents of the browser window to determine the contents of its web page.

Therefore, it is respectfully submitted that claim 7 is patentable over Ling, Shiratori, and Barritz.

Conclusion

For at least the above reasons, it is believed that claims 1, 2, and 4-7 are in condition for allowance. The Examiner is invited to telephone the undersigned at (408)436-2112 for any questions.

If for any reason an insufficient fee has been paid, the Commissioner is hereby authorized to charge the insufficiency to Deposit Account No. 50-2427.

Respectfully submitted,
Jax B. Cowden et al.

Dated: Nov. 14, 2005

Patrick D. Benedicto, Reg. No. 40,909
Okamoto & Benedicto LLP
P.O. Box 641330
San Jose, CA 95164
Tel.: (408)436-2110
Fax.: (408)436-2114

CERTIFICATE OF MAILING			
I hereby certify that this correspondence, including the enclosures identified herein, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. If the Express Mail Mailing Number is filled in below, then this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service pursuant to 37 CFR 1.10.			
Signature:			
Typed or Printed Name:	Patrick D. Benedicto	Dated:	November 14, 2005
Express Mail Mailing Number (*optional*):			